

Docket No.: **11590/9-1268**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**  
**BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re application of

Applicant:	Leonard E. Marchese	Conf. No. 1815
Serial No.:	09/613,980	Group Art Unit: 2151
Filed	: July 11, 2000	Examiner: Khanh Q Dinh
For	: ELECTRONIC SPACE AND METHOD FOR FACILITATING PROBLEM SOLVING	

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Board of Patent Appeals and Interferences  
U.S. Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450

**RESPONSE TO NOTICE OF NON-COMPLIANT APPEAL BRIEF**

Sir:

In response to the Notice of Non-Compliant Appeal Brief mailed on December 31, 2007, the applicant encloses a replacement paper supplying the Summary of the Claimed Subject Matter. Per MPEP 1205.03(B), an entire new brief is not needed, there being no other stated objections in the notice of non-compliance.

The applicant hereby objects to the notice of non-compliance as being improper and beyond the scope of the rules.

The Final Rejection in this case issued on October 7, 2004, with a Notice of Appeal timely filed thereafter, followed by an Appeal Brief submitted on May 4, 2005. On August 26, 2005, instead of an Examiners' Answer, the Examiner issued an Office Action, citing new grounds for rejection. On January 26, 2006, the applicant requested reinstatement of the appeal, and submitted a revised appeal brief addressing the new grounds for rejection. Nearly two years later, on September 14, 2007, the Examiner issued a notice of non-compliance relative to the Summary of Claimed Subject Matter, to which the applicant filed a reply on September 28, 2007.

Now, yet again, the Examiner has issued another notice of Non-Compliance, this time the stated reason is "The explanation of the subject matter in independent claims (21, 26 and 32) should be defined in separate sections."

No such requirement is incorporated in the rules governing appeal briefs. While the applicant believes the Appeal Brief as presently submitted is in full compliance with the requirements of 37 CFR 41.37, the applicant is submitting yet another amended "Summary of the Claimed Subject Matter", so as to expedite prosecution of the appeal. However, the applicant has also submitted a petition, as the examiner has overstepped his authority in crafting requirements that extend beyond the rules of practice. Specifically, 37 CFR 41.37(c)(1)(v) contains no requirement to discuss each independent claim in a separate section.

As stated in the last submission, it is believed that the Summary provided was adequate and should have been accepted. Given the long delay, it should be considered that any objection as to form was waived. This case has been before the Patent Office for over 7 years, and it has been well over two years since the first brief was filed. It is requested that the case now receive expedited consideration, and that further delays be avoided.

The required fee for filing the Appeal Brief was paid with submission of the first Appeal Brief on May 4, 2005. No fee is believed to be due at this time, however, should any fee be due, the Commissioner is authorized to charge any deficiency or credit any excess to Deposit Account No. 04-0838.

Dated: March 7, 2008

Respectfully submitted,

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